

REMARKS

Applicants acknowledge receipt of an Advisory Action dated April 24, 2002. In this response, Applicants have amended independent claim 1. Support for this amendment may be found in the specification at, for example, page 4, line 11. Following entry of these amendments, claims 1-16 and 18-25 are pending in the application.

Reconsideration of the present application in view of the foregoing amendments and the following remarks is respectfully requested.

Rejections Under 35 U.S.C. §112, 2nd Paragraph

In the Advisory Action, the PTO did not indicate whether or not the rejections under 35 U.S.C. §112 were maintained or whether these rejections had been withdrawn. Applicants respectfully request that the PTO indicate the status of the rejections under §112 in the next Office Action.

Rejections Under 35 U.S.C. §103(a)

In the Advisory Action, the PTO has maintained the rejection of claims 1-16, 18-23, and 25 under 35 U.S.C. § 103(a) based on U.S. Patent 4,154,857 to Higgins (hereafter "Higgins") in view of WO 93/191259 to Lim *et al.* (hereafter "Lim"). In addition, the PTO has maintained the rejection of claims 14 - 16, and 24 under 35 U.S.C. § 103(a) based on Higgins in view of Lim *et al.* and U.S. Patent 5,681,517 to Metzger (hereafter "Metzger"). Applicants respectfully traverse these rejections for the reasons set forth below.

In this response, Applicants have amended claim 1 to recite, "[a]n edible shaped body in the form of a...film which does not contain collagen...". Support for this amendment may be found in the specification at, for example, page 4, line 11 which includes the statement that "[c]ollagen is unsuitable."

In contrast to the present invention, the first paragraph of Higgins states that his invention "...relates to a method for producing formed collagen structures and the resultant collagen structures produced thereby and more particularly to an improved method for preparing collagen products such as tubular food casings...".

In order to establish *prima facie* obviousness of a claimed invention, all claim limitations must be taught or suggested by the prior art. (See MPEP §2143.03). Here, Higgins fails to teach or fairly suggest "[a]n edible shaped body in the form of a...film which does not contain collagen..." as recited in instant claim 1. The secondary references, Lim and Metzger, add nothing to resolve this basic deficiency of Higgins. Accordingly, Applicants submit that none of the references cited by the PTO, Higgins, Lim and Metzger, taken either individually or in fair combination, teach or fairly suggest the subject matter of amended claim 1 within the meaning of §103. Applicants further submit that any attempt to modify Higgins to exclude collagen would be improper because such a modification would change a fundamental part of the reference. (See MPEP §2143.01).

In view of the foregoing, Applicants respectfully request reconsideration and withdrawal of the outstanding rejections under §103.

Respectfully submitted,

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By RL Schwaab 38,011

FOLEY & LARDNER
Customer Number: 22428

Richard L. Schwaab
Attorney for Applicant
Registration No. 25,479



22428

PATENT TRADEMARK OFFICE

Telephone: (202) 672-5300

Facsimile: (202) 672-5399

Should additional fees be necessary in connection with the filing of this paper, or if a petition for extension of time is required for timely acceptance of same, the Commissioner is hereby authorized to charge Deposit Account No. 19-0741 for any such fees; and applicant(s) hereby petition for any needed extension of time.

Versions with Markings to Show Changes Made

In the Claims:

1. (Three Times Amended) An edible shaped body in the form of a flat or tubular fiber containing film which does not contain collagen and which is based on biopolymers or cleavage products or derivatives thereof and/or synthetic polymers of natural monomers is produced by a process having the following stages:

- a) mixing the biopolymers, cleavage products or derivatives thereof and/or the synthetic polymers with at least one edible plasticizer, at least one lubricant and at least one crosslinker and fibers,
- b) melting the resultant mixture to give a thermoplastic mass,
- c) extruding this mass and
- d) calendering and/or stretching or blowing the product obtained from the extrusion to give the edible shaped body.